

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)
)
Biennial Regulatory Review of Regulations)
Administered by the Wireline Competition) WC Docket No. 02-313
Bureau)
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NOTICE OF PROPOSED RULEMAKING

Adopted: December 31, 2003

Released: January 12, 2004

Comment Date: 30 days after publication in the Federal Register.

Reply Comment Date: 45 days after publication in the Federal Register.

By the Commission: Commissioner Copps issuing a statement.

I. INTRODUCTION AND BACKGROUND

1. Section 11 of the Communications Act of 1934, as amended (the Act) directs the Commission to (1) review biennially its regulations that apply to the operations or activities of telecommunications service providers; and (2) determine whether those regulations are “no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.”¹ The Commission must then modify or repeal any such regulations that are no longer necessary in the public interest.² Consistent with these obligations, we adopted a Report in 2002 addressing certain legal and administrative matters relating to the biennial regulatory review process.³

2. Concurrent with the release of the *2002 Report*, we released the *2002 Biennial Regulatory Review Staff Reports*, prepared by several of the Commission’s operating Bureaus

¹ 47 U.S.C. § 161(a). Section 11 is part of the Telecommunications Act of 1996, which amends the Communications Act of 1934. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

² 47 U.S.C. § 161(b).

³ Issues discussed include the scope of review required under Section 11, the required standard of review, the timing of our review, and procedures for persons disagreeing with the staff recommendations to file an application for review. *The 2002 Biennial Regulatory Review*, GC Docket No. 02-390, Report, FCC 02-342 (rel. Mar. 14, 2003) (*2002 Report*).

and the Office of Engineering and Technology.⁴ In each *Staff Report*, the Bureau or Office summarized its review of the rules under its purview to determine whether to recommend that the Commission modify or repeal such rules. We indicated in the *2002 Report* that the Commission would, based on these *Staff Reports*, issue notices of proposed rulemaking to repeal or modify regulations that may no longer be in the public interest.⁵ By this Notice, we initiate one such proceeding for certain rules reviewed by the Wireline Competition Bureau (WCB or the Bureau)

3. *Scope.* In accordance with the *2002 Report* and WCB's recommendations, we seek comment on whether certain rules should be repealed or modified because they are no longer necessary in the public interest. Although we received comments on many of the rules identified in this Notice prior to issuing the *2002 Report* and accompanying *2002 WCB Staff Report*,⁶ we specifically seek additional comment in this Notice on those rules that we believe are appropriate for repeal or modification because they are outdated,⁷ have expired by their own terms, or as a result of competition may no longer be necessary in the public interest in their current form. We seek comment on the specific proposed rule changes that are listed in the Appendix to this Notice. We intend to consider the comments received pursuant to this Notice and issue one or more orders to repeal or modify the applicable rules, as appropriate. We note that this Notice includes proposals to make non-substantive changes to Commission rules that fall outside the scope of section 11 of the Act. The Commission is not precluded from proposing non-substantive changes to its rules that fall outside the scope of section 11 of the Act, but come to light as a result of the biennial review process. We also note that non-substantive changes to Commission rules are not subject to the notice and comment requirements of the Administrative Procedures Act.⁸ In the interest of administrative efficiency, we have included these proposed changes in this item.

II. DISCUSSION

A. Part 1 – Practice and Procedure

4. *Subpart E – Complaints, Applications, Tariffs, and Reports Involving Common Carriers.* Part 1 of the Commission's rules prescribes general rules of practice and procedure for the Commission to follow in carrying out its responsibilities. Section 1.815 requires common carriers with 16 or more full-time employees to file an annual employment report with the Commission (FCC Form 395).⁹ This report provides statistical information on the racial, ethnic,

⁴ See, e.g., *Wireline Competition Bureau, Federal Communications Commission, Biennial Regulatory Review 2002*, WC Docket No. 02-313, GC Docket No. 02-390, Staff Report, DA 03-804 (dated Dec. 31, 2002) (*2002 WCB Staff Report*). The *Staff Reports* are available at <http://www.fcc.gov/biennial/>.

⁵ *2002 Report*, FCC 02-342 at para. 2.

⁶ See *id.* at para. 3.

⁷ For example, we propose to update all references to Common Carrier Bureau (CCB) in our rules to reflect the Bureau's current designation as the Wireline Competition Bureau (WCB). See *Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau, and Other Organizational Changes*, Order, 17 FCC Rcd 4672 (2002).

⁸ See 5 U.S.C. § 553(b)(A)-(B).

⁹ 47 C.F.R. § 1.815.

and gender makeup of a carrier's work force in nine specific job categories. The rule was adopted to enable the Commission to monitor industry trends in minority and female employment and to raise appropriate questions regarding these patterns.¹⁰ Because federal and state equal employment opportunity (EEO) agencies collect identical or similar information,¹¹ commenters stated that section 1.815 imposes a needless paperwork burden on the carriers.¹²

5. Additionally, since 1994, licensees have been able to use FCC Form 395 to file annual reports of employment-related discrimination complaints.¹³ These reports must be filed by *all* licensees, regardless of the number of employees, pursuant to sections 21.307(d), 22.321(c), and 23.55(d) of the Commission's rules.¹⁴ Pursuant to these requirements, any complaint filed against a carrier involving EEO violations of any federal, state, territorial, or local laws must be reported to this Commission. Such reports were intended to serve as a means by which the Commission could monitor and investigate carrier practices "indicating a general pattern of disregard of equal employment practices."¹⁵

6 We seek comment on whether the Commission should continue to require carriers to file annually FCC Form 395 and the report of employment-related discrimination complaints. Specifically, we seek comment on whether this collection is necessary to identify or address issues relating to unlawful discrimination by common carriers, given the availability of similar information from other sources. For example, sections 21.307, 22.321, and 23.55 of the Commission's rules provide mechanisms by which complaints alleging unlawful discrimination may be filed against carriers, and the Commission investigates these complaints or refers them to the EEOC where appropriate. We also seek comment on whether Commission action to modify or eliminate form 395 is appropriate given the efforts of the Advisory Committee on Diversity for Communications in the Digital Age. Specifically, we seek comment on whether this information is useful to the Advisory Committee. We also seek comment on whether continued monitoring of common carrier employment practices by the Commission pursuant to section 1.815 and utilizing FCC Form 395 is necessary in the public interest, or whether other available sources provide sufficient information for parties to rely on in filing EEOC complaints.¹⁶

¹⁰ See *Rulemaking to Require Communications Common Carriers to Show Nondiscrimination in Their Employment Practices*, Docket No. 18742, Report and Order, 24 F.C.C.2d 725, 727-28, para. 6 (1970).

¹¹ For example, the Equal Employment Opportunity Commission (EEOC) collects the same information with minor variations on its Employer Information Report EEO-1, which must be filed annually by all employers with 100 or more employees. See 29 C.F.R. §§ 1602.7-9. The Employer Information Report EEO-1 incorporates the same race/ethnicity classification system and the same job category classification as the FCC Form 395. The EEOC uses the data from this form to review the employment practices of firms for compliance with the civil rights laws.

¹² 2002 WCB Staff Report, DA 03-804 at 15-16. Commenters included the Cellular Telecommunications and Internet Association (CTIA), and the Rural Cellular Association.

¹³ This requirement may be fulfilled by completing Section V of FCC Form 395. Filers that do not elect to use FCC Form 395 must file a separate report.

¹⁴ 47 C.F.R. §§ 21.307(d), 22.321(c), 23.55(d).

¹⁵ *Petitions Filed by the Equal Opportunity Employment Commission (EEOC)*, Docket No. 19143, Memorandum Opinion and Order, 27 F.C.C.2d 309, 311, para. 6 (1971).

¹⁶ See, e.g., 47 C.F.R. § 90.168 (requiring Commercial Mobile Radio Services licensees to report EEOC-related information).

B. Part 36 – Jurisdictional Separations Procedures

7. The Part 36 rules are designed to recognize the dual state-federal system of telecommunications regulation, with interstate communications regulated at the federal level. They contain procedures and standards for dividing telephone company investment, revenues, expenses, taxes, and reserves between the state and the federal jurisdictions. The division of costs between the state and federal jurisdictions is necessary for the calculation of state and federal earned rates of return. In addition to allocating costs between the federal and state jurisdictions, Part 36 also serves a universal service function by permitting carriers that serve high-cost areas to allocate additional local loop costs to the interstate jurisdiction and to recover those costs through the high-cost universal service support mechanism, thus making intrastate telephone service in high-cost areas more affordable. As described below, we seek comment on the Bureau's recommendations to modify or repeal certain outdated and expired provisions in Part 36, and propose modification or repeal of other provisions that may no longer be necessary in the public interest.¹⁷

8. *Subpart A – General.* We seek comment on certain proposed modifications to this subpart to conform with current rules and policies.¹⁸ First, we propose modifying paragraph (ii) of section 36.2(b)(3), which sets forth the method for apportioning telecommunications plant used jointly for state and interstate operations, to indicate that “holding time minutes” is the basis for measuring the use of both local and toll switching plant, and to correct the erroneous removal of the provision for local switching investment from this section.¹⁹ We also propose modifying section 36.2(b)(3)(iv) to reflect the change from the subscriber plant factor (SPF) to the 25 percent Gross Allocator for exchange plant,²⁰ to conform with our current rules and policies.²¹ We seek comment on these proposals.

9. *Subpart B – Telecommunications Property.* We propose modifying section 36.125(f) to specify how the weighting factors should be applied in apportioning certain investment for study areas with fewer than 50,000 access lines.²² Additionally, several sections in this subpart contain references to dates that have passed or provisions that have expired by their own terms. For example, sections 36.154(d) through (f) regarding interstate allocation of certain costs for the years 1988 through 1992 have expired, and thus appear to be no longer applicable. We therefore propose to repeal these sections, as well as references to sections 36.154(d) through (f) found in

¹⁷ See 2002 WCB Staff Report, at 26-27

¹⁸ Because these proposed modifications are non-substantive, and are being proposed to conform with certain rules and policies, we see no need to refer them to the Federal-State Joint Board on Separations for consideration.

¹⁹ See 47 C.F.R. § 36.2(b)(3)(ii), *MTS and WATS Market Structure Amendments of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board*, CC Docket No. 78-72, CC Docket No. 80-286, CC Docket No. 86-297, 2 F.C.C.R. 2639 (1987). One of numerous changes made in this order, coincident with the implementation of the new Part 36 rules, was to collapse the 8 central office equipment (COE) categories previously used in Part 67 into 4 categories.

²⁰ 47 C.F.R. § 36.2(b)(3)(iv)

²¹ See, e.g., 47 C.F.R. § 36.154

²² 47 C.F.R. § 36.125(f)

section 36.154(c).²³ We seek comment on these proposals.

10 *Subpart F – Universal Service Fund.* The Bureau has recommended repeal of certain provisions in this subpart that have expired by their own terms.²⁴ They include sections 36.631(a) and (b),²⁵ which set forth regulations for calculating interstate expense adjustment until December 31, 1997, and section 36.641,²⁶ addressing transitional expense adjustment, which is no longer applicable. We believe that these provisions are no longer necessary because they have expired by their own terms, and thus propose to repeal them. Finally, we propose to modify section 36.631(d) to specify that this provision applies only to non-rural telephone companies serving study areas reporting more than 200,000 working loops.²⁷ We seek comment on these proposals.

11. *Miscellaneous Provisions.* In addition, we seek comment on whether to remove all references to Teletypewriter Exchange Service (TWX) from Part 36 of our rules.²⁸ No carrier has reported data on TWX since the Automated Reporting Management Information System (ARMIS) database was established in 1988, and references to TWX were removed from the ARMIS 43-04 report in 1999.²⁹ We seek comment on whether to retain the references in Part 36 to TWX service because carriers are still offering the service. Otherwise, we propose to delete all references to TWX service from Part 36 of our rules, and seek comment on this proposal.

12. Finally, we seek comment on whether, given that activities related to the provision of payphone service have been deregulated, certain provisions in Part 36 relating to payphone service should be eliminated. Specifically, we propose deleting the last sentence both in section 36.142(a) and section 36.377(a)(7),³⁰ and seek comment on this proposal.

C. Part 42 – Preservation of Records of Communications Common Carriers

13. Part 42 of the Commission's rules sets forth rules governing the preservation of records of communications common carriers, including all accounts, records, memoranda, documents, papers and correspondence prepared by or on behalf of such carriers. Part 42 was established to ensure the availability of carrier records needed by the Commission to meet its regulatory obligations. In addition, Part 42 serves the public interest by giving consumers access to information about the rates, terms, and conditions for interstate interexchange services.

²³ 47 C.F.R. § 36.154(d)-(f); see 47 C.F.R. § 36.154(c).

²⁴ 2002 WCB Staff Report, DA 03-804 at 26.

²⁵ See 47 C.F.R. § 36.631(a)-(b).

²⁶ See 47 C.F.R. § 36.641.

²⁷ 47 C.F.R. § 36.631(d).

²⁸ 47 C.F.R. §§ 36.126(e)(3), 36.126(e)(3)(i)-(iii), 36.152(a)(1)-(2), 36.156(b), 36.212(c), 36.214(a), 36.375(b)(2), 36.377(a)(1)-(3), Appendix A.

²⁹ See 1998 Biennial Review — Review of ARMIS Reporting Requirements, Petition for Forebearance of the Independent Telephone and Telecommunications Alliance, Report and Order in CC Docket No. 98-117, Fifth Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11443, 11452, para. 17 n.40 (1999).

³⁰ See 47 C.F.R. §§ 36.142(a), 36.377(a)(7).

14. In the 2002 WCB Staff Report, the Bureau recommended that the Commission initiate a proceeding to examine whether the Part 42 rules should be modified or repealed, based on its finding that it is unclear whether there are reasonable and less costly alternatives that would ensure that accurate carrier records are maintained.³¹ WCB specifically excluded sections 42.10 and 42.11³² from the recommendation, however, citing to support in the comments for retaining these sections,³³ and indicating that the Commission recently addressed them in a rulemaking.³⁴ These sections prescribe the public disclosure and information maintenance requirements with which non-dominant interexchange carriers must comply, which include making available to the public information on the rates, terms, and conditions of their international and interstate interexchange services. We agree with the Bureau that consumers should continue to have available to them this information about carriers' rates, terms, and conditions, and therefore will not revisit whether the sections 42.10 and 42.11 remain necessary in the public interest at this time.

15. Because we also agree with the Bureau that the remaining rules in Part 42 merit a review to determine whether there are reasonable and less costly alternatives for maintaining carrier records, we seek comment on the continuing usefulness of sections 42.1 through 42.9 in their current form.³⁵ Specifically, we seek proposals on less costly and more efficient ways to collect, preserve, and maintain carrier records and reports. Parties recommending that we change these procedures should specifically address the likely effect on the ability of the Commission, consumers, and other parties (such as those responsible for law enforcement) to access this important information. We make no specific proposal to modify or repeal these rules at this time, but will determine whether further rulemaking activity is warranted based on the comments received.

D. Part 51 - Interconnection

16. Part 51 of the Commission's rules implements sections 251 and 252 of the Act.³⁶ Most significantly, these provisions require that incumbent local exchange carriers (LECs) open their networks to competition, and thus, these provisions are critical to fostering local exchange and exchange access competition as envisioned by Congress. Section 251 establishes pro-competitive requirements for telecommunications carriers, LECs, and incumbent LECs; and provides that all telecommunications carriers have a duty to interconnect with other telecommunications carriers. Section 252 establishes procedures for negotiating, arbitrating, and approving interconnection agreements, and provides for pricing standards, including pricing of

³¹ 2002 WCB Staff Report, DA 03-804 at 30

³² 47 C.F.R. §§ 42.10, 42.11

³³ See 2002 WCB Staff Report, DA 03-804 at 30 (citing to comments from the United States Telecom Association (USTA))

³⁴ *Id.* at 30. Specifically, the Commission found that adoption of these public disclosure and information maintenance requirements would benefit consumers and further the public interest by enabling consumers to determine the most appropriate rate plans to meet their individual calling needs. See 2000 Biennial Regulatory Review, Policy and Rules Concerning the International Interexchange Marketplace, IB Docket No. 00-202, Report and Order, 16 FCC Rcd 10647, 10668-72, paras. 42-52 (2001)

³⁵ 47 C.F.R. §§ 42.1-9

³⁶ 47 U.S.C. §§ 251, 252

services offered for resale. We seek comment on certain provisions in this subpart that, for various reasons, may no longer be necessary in the public interest.

17. *Subpart C – Obligations of All Local Exchange Carriers.* Section 51.211 provides the toll dialing parity implementation schedule for LECs and Bell Operating Companies (BOCs).³⁷ The section contains a number of expired deadlines by which LECs and BOCs were required to implement toll dialing parity and/or notify the Commission of their failure to do so, none of which appear to have any remaining relevance. We therefore propose to repeal sections 51.211(a) – (e), and seek comment on this proposal.³⁸ We also seek comment on whether subsection (f), which defines the term “in-region, interLATA toll service” as it is used in sections 51.211 and 51.213, should be retained if we repeal subsections (a) – (e).³⁹

18. Section 51.213(c) also contains a number of expired deadlines, none of which appear to have any remaining relevance.⁴⁰ Accordingly, we propose to repeal paragraph (c). We also propose to repeal paragraph (d), given that this paragraph only provides procedural rules for handling implementation plans filed pursuant to paragraph (c), and seek comment on these proposals.⁴¹

19. *Subpart D – Additional Obligations of Incumbent Local Exchange Carriers.* Sections 51.325 through 51.335 comprise the Commission’s network change disclosure rules.⁴² These rules require incumbent LECs to “provide reasonable public notice of changes in the information necessary for the transmission and routing of services using local exchange carriers’ facilities or networks, as well as of any other changes that would affect the interoperability of those facilities or networks.”⁴³ The Commission found that these rules were necessary to ensure that competitors receive prompt and accurate notice of changes that could affect their ability to interconnect with the incumbent’s network.⁴⁴ The Bureau suggested in the *2002 WCB Staff Report*, however, that the procedures for disclosing network changes may have become unnecessarily complicated in light of carriers’ ability to provide notice of changes and other information via the Internet.⁴⁵ Since the issuance of the *2002 WCB Staff Report*, the Commission amended these rules in the *Triennial Review Order* as part of its fiber-to-the-home (FTTH) unbundling analysis, relying on the Commission’s role in the public notice disclosure process as a critical means of notifying competitors of incumbent LECs’ plans to replace copper

³⁷ 47 C.F.R. § 51.211

³⁸ 47 C.F.R. § 51.211(a)-(e).

³⁹ See 47 C.F.R. § 51.211(f).

⁴⁰ 47 C.F.R. § 51.213(c)

⁴¹ 47 C.F.R. § 51.213(d).

⁴² 47 C.F.R. §§ 51.325-335

⁴³ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order, 11 FCC Rcd 19392, 19468, para. 165 (1996)

⁴⁴ See, e.g., *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, Notice of Proposed Rulemaking, 11 FCC 14171, 14236, para. 192 (1996).

⁴⁵ *2002 WCB Staff Report*, DA 03-804 at 38. See also BellSouth Reply at 4. BellSouth states that “while the public interest continues to be served through public disclosures of network changes, the archaic requirement that such public disclosures must be performed through the Commission has long out-lived its usefulness.” *Id.*

loops or copper subloops with fiber.⁴⁶ That decision recognized the importance of public disclosure of planned copper loop retirement and sought to ensure that competitive LECs maintain access to loop facilities where necessary, and modified the rules accordingly.⁴⁷

20 Although the Commission recently strengthened the network disclosure rules in certain respects as described above, we nevertheless believe that the Commission should streamline one aspect of these rules. Specifically, we propose deleting section 51.329(c)(3) of the Commission's rules that requires that paper and diskette copies of the incumbent LEC's public notice or certification be sent to the Chief of the Bureau. We find that this requirement is no longer necessary to the public interest.⁴⁸ Due to the other public filing and notification provisions of this section⁴⁹ and the continual review by Commission staff of these filings, direct service of a copy of these submissions upon the Chief of the Bureau represents an unnecessary expenditure of resources. However, we do not extend this tentative conclusion to remove all obligations to notify the Commission, as some commenters have suggested.⁵⁰ In light of the importance we placed in the *Triennial Review Order* on the modifications to our network disclosure rules, we do not believe that Internet posting is a sufficient method of disclosure. Given the modifications to our network change disclosure rules made in the *Triennial Review Order*, we seek comment on whether we should modify section 51.329(c)(1), which enumerates the specific titles that incumbent LECs must use when providing public notice, or certification of public notice, of network changes.⁵¹ Specifically, we seek comment on whether modifying our rules by adding specific titles to identify notices of replacement of copper loops or copper subloops with FTTH loops would assist both incumbent LECs and other parties in determining the applicable notice rules.

21. *Subpart F – Pricing of Elements.* Section 51.515 of the Commission's rules provides that neither interstate access charges nor comparable intrastate access charges shall be assessed by an incumbent LEC on purchasers of unbundled elements.⁵² Subparts (b) and (c) of that section, however, permit incumbent LECs to assess certain interstate and intrastate access

⁴⁶ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17141, 17146-48, paras. 271, 281-84 (*Triennial Review Order*)

⁴⁷ See *id.* at 17146, para. 281. The Commission amended the network modification rules in two major respects with regard to replacement of copper loop or subloops with fiber. First, parties are entitled to object to both short-term and long-term notifications for proposed retirement of such loops, whereas the disclosure rules for non-FTTH replacement only allow objections to short-term notifications. Second, for all copper loop retirement due to replacement with a FTTH loop, all such objections are denied "unless the Commission rules otherwise upon the specific facts and circumstances of the case at issue within 90 days of the Commission's public notice of the intended retirement." *Id.* at paras. 282-83, 47 C.F.R. § 51.333

⁴⁸ 47 C.F.R. § 51.329(c)(3)

⁴⁹ See, e.g., 47 C.F.R. § 51.329(c)(2) (requiring copies of incumbent LEC public notice or certification of compliance through alternative forms of notice be filed with the Secretary of the Commission)

⁵⁰ See *supra* note 45

⁵¹ 47 C.F.R. § 51.329(c)(1)

⁵² 47 C.F.R. § 51.515(a).

charges for a limited period of time, but in no event after June 30, 1997.⁵³ These provisions appear to be no longer applicable because their effective dates have expired. Accordingly, we propose to repeal sections 51.515 (b) and (c), and seek comment on this proposal.

E. Part 52 – Numbering

22. Part 52 implements the requirements of section 251(e) of the Act, which gives the Commission exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that pertain to the United States.⁵⁴ Part 52 contains rules governing the administration of the NANP, as well as rules that are designed to ensure that users of telecommunications services can retain, at the same location, their existing telephone numbers when they switch from one local exchange telecommunications carrier to another. We seek comment on various provisions in this Part to determine whether they remain necessary in the public interest.

23. *Subpart A – Scope and Authority.* On December 23, 2002, WCB took action to allow American Samoa to participate in the NANP and requested that the North American Numbering Plan Administrator (NANPA) set aside ten central office (or NXX) codes in the 684 area code for assignment to carriers operating in American Samoa.⁵⁵ We therefore propose to affirm the Bureau's action by updating section 52.5(c) to include American Samoa on the list of U.S. territories participating in the NANP, and seek comment on this proposal.⁵⁶

24. *Subpart B – Administration.* Through a series of Reports and Orders issued since the passage of the 1996 Act, the Commission has undertaken a more active role in establishing numbering policy and regulations for the industry to follow.⁵⁷ In addition, several aspects of numbering administration have been delegated to state commissions.⁵⁸ We therefore propose several modifications to this Subpart to more accurately reflect the current roles of the

⁵³ 47 C.F.R. § 51.515(b)-(c)

⁵⁴ 47 U.S.C. § 251(e)

⁵⁵ See Letter from William F. Maher, Jr., Chief, Wireline Competition Bureau, to Ron Conners, Director North American Numbering Plan Administration (Dec. 23, 2002). "Central office code" or "NXX code" refers to the second three digits (also called digits D-E-F) of a ten-digit telephone number in the form NPA-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. 47 C.F.R. § 52.7

⁵⁶ 47 C.F.R. § 52.5(c).

⁵⁷ See, e.g., *Numbering Resource Optimization*, First Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) (*Numbering Resource Optimization First Report and Order*); *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket 99-200, 16 FCC Rcd 306 (2000); *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 99-200, 17 FCC Rcd 252 (2001)

⁵⁸ See, e.g., *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) (delegating authority to state commissions to initiate area code relief planning, implement area code relief, adopt NXX rationing in conjunction with area code relief decisions, order voluntary thousands-block number pooling trials, and set aside a certain number of NXX codes for thousands-block number pooling), *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7603 (delegating authority to the state commissions to reduce the frequency of reporting for carriers in their states).

Commission and the industry in numbering administration

25 The national numbering administrators, which include the NANPA, the Pooling Administrator (PA), and the billing and collection agent are currently selected through a competitive bidding process pursuant to the Federal Acquisitions Regulations (FAR).⁵⁹ Thus, the North American Numbering Council (NANC), the Commission's advisory committee for numbering issues, no longer is responsible for recommending an entity to serve as the NANPA. We therefore propose to repeal section 52.11(d).⁶⁰ We also propose to modify sections 52.13(b) and 52.13(b)(3) to reflect the current role of the Commission in directing policy on and accommodating current and future numbering needs.⁶¹ We further propose to delete references to the Central Office Code Utilization Survey (COCUS), which is no longer used by the NANPA to collect number utilization and forecast information from carriers.⁶² We seek comment on these proposals.

26. We also propose to repeal portions of section 52.15 of the Commission's rules.⁶³ Paragraph (c) sets forth regulations for telecommunications carriers that perform central office code administration. All such administration is currently performed by the NANPA, so these provisions are no longer applicable. Similarly, paragraphs (d) and (e) address CO code administration functional requirements, and describe procedures for the initial transfer of numbering administration functions from Bellcore and certain carriers to the first NANPA.⁶⁴ Because the transfer of these functions occurred more than five years ago, and because the NANPA's functional requirements are detailed in section 52.13, Commission orders, and industry guidelines, it appears that portions of paragraphs (d) and (e) are no longer applicable.⁶⁵

⁵⁹ See, e.g., *The Federal Communications Commission Issues a Request for Proposals for the North American Numbering Plan Administrator's Next Term of Administration*, CC Docket No. 92-237, CC Docket No. 99-200, DA 02-2736 (rel. Oct. 18, 2002). The Federal Acquisitions Regulations (FAR) are in Chapter 48 of the Code of Federal Regulations. The FAR governs the acquisition by contract of supplies and services for use by the federal government.

⁶⁰ 47 C.F.R. § 52.11(d). We note, however, that WCB continues to seek the NANC's input on what technical requirements these entities should meet to qualify for selection.

⁶¹ 47 C.F.R. §§ 52.13(b), 52.13(b)(3).

⁶² See 47 C.F.R. §§ 52.13(c)(4), 52.15(b)(3). In the *Numbering Resource Optimization First Report and Order*, the Commission required that all carriers receiving numbering resources from the NANPA or the PA report their numbering resource utilization and forecast (NRUF) data to the NANPA. *Numbering Resource Optimization First Report and Order*, 15 FCC Rcd at 7594.

⁶³ 47 C.F.R. §§ 52.15(c), 52.15(e).

⁶⁴ 47 C.F.R. §§ 52.15(d)-(e).

⁶⁵ In 1995, the Commission directed the NANC to recommend an independent, non-governmental entity that is not closely associated with any particular industry segment to serve as the new NANP administrator. See *Administration of the North American Numbering Plan*, Report and Order, 11 FCC Rcd 2588, 2608 (1995). In October 1997, the Commission accepted the recommendation of the NANC and selected Lockheed Martin CIS as the new NANP administrator, noting that it would perform the numbering administration functions previously performed by Bellcore, as well as area code relief initiation and planning and CO code administration previously performed by the incumbent LECs. See *Administration of the North American Numbering Plan*, Third Report and Order, *Toll Free Service Access Codes*, Third Report and Order, 12 FCC Rcd 23040, 23042, 23051-52, 23071-72 (1997). Lockheed Martin CIS assumed the NANP administrator functions in February 1998. Lockheed Martin CIS assumed the CO code administration functions in the United States under a longer transition timetable; that transition was completed in July 1999. On November 17, 1999, the NANPA functions were transferred to NeuStar,

(continued)

We therefore seek comment on our proposal to modify or delete these provisions.

27 *Subpart C – Number Portability.* We also seek comment on several proposed changes to our local number portability (LNP) rules to reflect the current status of LNP implementation. Specifically, we propose to update section 52.23 to reflect the passage of the deadline for deployment of LNP in the largest 100 metropolitan statistical areas (MSAs). Specifically, section 52.23(b) sets forth requirements relating to the initial deployment of wireline LNP, which was completed in 1998.⁶⁶ Accordingly, we seek comment of whether these rules should be modified. Similarly, sections 52.23(d) through (f) contain provisions relating to the original deployment schedule for wireline LNP.⁶⁷ We also seek comment on whether these rules should be modified. In addition, because the field tests discussed in section 52.23(g) have been completed, this provision is no longer necessary and we propose to repeal it as well.⁶⁸ Because long-term database methods for number portability have been developed and implemented, there also appears to no longer be a need for the regulations in sections 52.27 and 52.29 governing the implementation of transitional measures.⁶⁹ We therefore propose to modify these rules. We seek comment on these proposals.

28. Finally, the November 24, 2003 deadline for implementation of LNP by Commercial Mobile Radio Services (CMRS) recently passed.⁷⁰ We therefore seek comment on whether certain provisions in section 52.31 of the Commission's rules should be modified.⁷¹ First, we propose to repeal section 52.31(c), which, in its current form, has expired by its own terms.⁷² We seek comment on this proposal. Further, because sections 52.31 (d) through (e) contain provisions relating to the original deployment schedule for wireline LNP we seek comment on

(continued from previous page)

which now serves as the NANP administrator. See *Request of Lockheed Martin Corporation and Warburg, Pincus & Co. for Review of the Transfer of the Lockheed Martin Communications Industry Services Business*, Order, 14 FCC Rcd 19792 (1999)

⁶⁶ See, e.g., 47 C.F.R. § 52.23(b)(2)(ii) (requires carriers to request LNP nine months before the deployment deadline). See also Appendix to Part 52 – Deployment Schedule for Long-term Database Methods for Local Number Portability

⁶⁷ 47 C.F.R. § 52.23(d)-(f)

⁶⁸ 47 C.F.R. § 52.23(g)

⁶⁹ 47 C.F.R. §§ 52.27, 52.29

⁷⁰ *Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket No. 01-184, *Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) (*Verizon Wireless LNP Forbearance Order*), *Cellular Telecommunications & Internet Association v. FCC*, No. 02-1264 (D.C. Cir. June 6, 2003) (dismissed in part and denied in part CTIA's appeal of the Commission's decision in *Verizon Wireless LNP Forbearance Order*)

⁷¹ We note that certain dates and other provisions in this section were recently updated in the *Numbering Resource Optimization Fourth Report and Order*. *Numbering Resource Optimization*, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 18 FCC Rcd 12472 (2003)

⁷² 47 C.F.R. § 52.31(c)

whether these sections should be retained or modified.⁷³

F. Part 53 – Special Provisions Concerning Bell Operating Companies

29 Part 53 of the Commission's rules generally implements the structural safeguards pursuant to section 272 and certain requirements in section 271 of the Act. Section 272 establishes safeguards applicable to BOC equipment manufacturing, provision of in-region interLATA telecommunications service, and provision of interLATA information services (other than electronic publishing and alarm monitoring). Section 271 prescribes certain requirements concerning joint marketing of local exchange and long distance services.

30 *Subpart B – Bell Operating Company Entry Into InterLATA Service.* Section 53.101 provides that BOCs serving more than 5 percent of the national presubscribed access lines may not jointly market their local and interLATA services until the earlier of the BOCs' authorization to provide in-region, interLATA services or February 8, 1999.⁷⁴ Because the expiration date of the prohibition against joint marketing for all BOCs has passed, section 53.101 appears to have expired by its own terms. Thus, we propose to repeal this provision as no longer necessary in the public interest, and seek comment on this proposal.

G. Part 54 – Universal Service

31. Sections 214(e) and 254 of the Act direct the Commission to establish specific, predictable, and sufficient mechanisms to preserve and advance universal service.⁷⁵ Part 54 promotes universal service by establishing explicit mechanisms to ensure that all consumers, including consumers living in rural, insular, and high-cost areas as well as low-income consumers, have access to affordable telecommunications services. Part 54 is designed to accomplish these goals in a competitively neutral manner by collecting support from every telecommunications carrier that provides interstate telecommunications service, and by making support available on a technologically neutral basis to any eligible service provider. We seek comment below on whether certain provisions in this Part should be modified or repealed because they are no longer necessary in the public interest.

32. *Subpart C – Carriers Eligible for Universal Service Support.* We seek comment on whether there are any state commissions that have not yet designated as an eligible telecommunications carrier a carrier that sought such a designation before January 1, 1998, pursuant to section 54.201(a)(2).⁷⁶ If not, it appears that this provision is no longer necessary, and we therefore propose to delete it. We seek comment on this proposal.

33. *Subpart D – Universal Service Support for High Cost Areas.* Sections 54.303(b)(1) through (3) appear to have expired by their own terms.⁷⁷ Nevertheless, we note that these

⁷³ 47 C.F.R. § 52.31(d)-(e). These provisions allow a carrier unable to meet the LNP implementation deadline to petition the Commission for an extension of time, and delegate authority to the Chief, Wireless Telecommunications Bureau, to establish carrier reporting requirements.

⁷⁴ 47 C.F.R. § 53.101.

⁷⁵ 47 U.S.C. §§ 214(e), 254.

⁷⁶ 47 C.F.R. § 54.201(a)(2).

⁷⁷ 47 C.F.R. § 54.303(b)(1)-(3).

provisions may assist carriers in calculating long term support (LTS). Accordingly, we propose retaining section 54.303(b)(1) through (3) of our rules and seek comment on this proposal. We also seek comment on whether sections 54.313(d)(1) and (2), which contain deadlines for the first and second program years, remain necessary.⁷⁸ Because these provisions appear to have expired by their own terms, we propose to delete them. We seek comment on this proposal.

34. *Subpart F – Universal Service Support for Schools and Libraries.* Certain provisions in section 54.507(b), particularly paragraphs (1) and (2) regarding funding year 1998-99, appear to have expired by their own terms.⁷⁹ We believe, however, that this section may remain necessary to allow proper adjustment of certain prior funding commitments. We therefore propose to retain and update, rather than repeal, this section, and seek comment on this proposal.

35. *Subpart G – Universal Service Support for Health Care Providers.* We propose to eliminate several sections in this subpart that appear to have expired by their own terms. For example, section 54.604(a)(2) addresses contracts signed after July 10, 1997 but “before the date on which the universal service competitive bid system described in [section 54.603] is operational.”⁸⁰ Because it appears that this time period has expired, we propose to delete this provision. Similarly, sections 54.604(d), 54.623(b), and 54.623(c)(2) and (3) contain provisions that appear to no longer be applicable.⁸¹ We therefore seek comment on whether they should be repealed in whole or in part. We also propose modifying section 54.623(c)(4) by adding language to reflect that applications submitted within subsequent filing periods will be treated as simultaneously received.⁸² We seek comment on these proposals.

H. Part 63 – Extension of Lines, New Lines, and Discontinuance, Reduction, Outage and Impairment of Service by Common Carriers; and Grants of Recognized Private Operating Agency Status

36. Section 214 of the Act provides that no carrier shall undertake the construction of a new line or extension of any line, or shall acquire or operate any line, or extension thereof, without first having obtained a certificate from the Commission that the present or future public convenience and necessity require the construction and/or operation of such extended line. Section 214 also provides that no carrier shall discontinue, reduce or impair service to a community without first having obtained a certificate from the Commission that neither the present nor future public convenience and necessity will be adversely affected by such action.⁸³ Part 63 of our rules implements these provisions. We seek comment below on whether certain of the provisions in this part are no longer necessary in the public interest.

37. *General Provisions Relating to All Applications Under Section 214; Discontinuance.* Section 63.61 provides that any carrier subject to the provisions of section 214, except a non-

⁷⁸ 47 C.F.R. § 54.313(d)(1)-(2).

⁷⁹ 47 C.F.R. § 54.507(b)(1)-(2).

⁸⁰ 47 C.F.R. § 54.604(a)(2). The system became operational on May 1, 1998.

⁸¹ See 47 C.F.R. §§ 54.604(d), 54.623(b), 54.623(c)(2)-(3).

⁸² 47 C.F.R. § 54.623(c)(4).

⁸³ 47 U.S.C. § 214(a).

dominant carrier as defined in our rules,⁸⁴ that seeks to discontinue, reduce, or impair service, must file for and receive authority from the Commission in order to take such action.⁸⁵ Section 63.71 requires that any domestic carrier (including non-dominant carriers) must file for and receive authority from the Commission before discontinuing, reducing, or impairing service.⁸⁶ The Commission adopted section 63.71 more recently, and clearly intended its requirements to apply to non-dominant domestic carriers. These requirements in fact have been applied to non-dominant domestic carriers consistently since the rule was adopted. Nevertheless, because section 63.61 was mistakenly left unchanged when section 63.71 was adopted, we propose to modify section 63.61 to clear up any confusion about non-dominant domestic carriers' obligation to abide by section 63.71. We also propose to correct the erroneous cross-reference to section 61.3(u) in section 63.61, as the term "non-dominant carrier" is defined in section 61.3(y).⁸⁷ We further propose to revise sections 63.61 and 63.71 to make clear that the procedures for the discontinuance, reduction or impairment of international services are governed by section 63.19 of our rules.⁸⁸ We seek comment on these proposals.

38. We also propose to correct a discrepancy relating to when customers must file comments with the Commission in response to a carrier's proposed discontinuance, reduction or impairment of service. Section 63.71(a)(5)(i) and (ii) provide boiler plate language for carriers to advise affected customers of a proposed discontinuance, reduction, or impairment of service, and their right to file comments with the Commission within 15 days (30 days for dominant carrier customers) after receipt of said notice.⁸⁹ As a practical matter, however, customers have longer than this period because they receive actual notice of the proposed discontinuance before the date of public notice.⁹⁰ To illustrate, section 63.71 applications are not deemed filed until the Commission releases public notice of the proposed action,⁹¹ and the publication of this notice generally takes place after the date customers receive notice.⁹² Consequently, customers have longer than 15 days (or 30 days if applicant is a dominant service provider) from actual receipt of notice to file comments. We therefore propose to modify these paragraphs to more accurately reflect actual notice periods and procedures. We seek comment on these proposals.

⁸⁴ See 47 C.F.R. § 61.3(y).

⁸⁵ 47 C.F.R. § 63.61.

⁸⁶ See 47 C.F.R. § 63.71. International carriers are also subject to discontinuance rules. 47 C.F.R. § 63.19.

⁸⁷ 47 C.F.R. § 63.3(u), (y).

⁸⁸ See 47 C.F.R. § 63.19.

⁸⁹ 47 C.F.R. § 63.71(a)(5)(i)-(ii).

⁹⁰ We note that if another carrier acquires all or part of an exiting carrier's subscriber base through a sale or transfer, and the acquiring carrier does not obtain each subscriber's authorization and verification in accordance with 47 C.F.R. § 64.1120(c), the acquiring carrier must, at least 30 days before the planned transfer, file with the Commission's office of the Secretary a letter notification that complies with the requirements of section 47 C.F.R. § 64.1120 (e), and includes a copy of the advance written notice sent to affected subscribers. The subscriber notice must contain all of the information specified in section 64.1120(e), and must be provided to the affected subscribers at least 30 days in advance of the planned transfer. See 47 C.F.R. §§ 64.1120(c), (e).

⁹¹ 47 C.F.R. § 63.71(c).

⁹² As a matter of law, an application cannot be filed with the Commission until the applicant sends notice to its affected customers. See 47 C.F.R. § 63.71(b).

I. Part 64 – Miscellaneous Rules Relating to Common Carriers

39. Part 64 of the Commission's rules addresses miscellaneous provisions pertaining to the regulation of common carriers. Subpart M implements section 276 of the Communications Act of 1934, as amended, concerning the provision of payphone service. These rules govern compensation to payphone providers by carriers that receive calls from payphones; require states to review and remove any state regulation that limits market entry and exit by payphone providers; and establish regulations to ensure that individuals with disabilities can use payphones. Subpart T establishes separate subsidiary requirements applicable to the provision of in-region, interstate domestic, interexchange services and in-region international interexchange services by incumbent independent local exchange carriers. We seek comment on whether certain provisions in these Subparts are no longer necessary in the public interest.

40. *Subpart M – Provision of Payphone Service.* Section 64.1330(c) requires that states review and remove payphone regulations that may impose market entry or exit requirements.⁹³ Because the September 20, 1998 deadline in this provision has passed, it appears to no longer be applicable. We therefore seek comment on whether this provision should be repealed. In the alternative, we seek comment on whether the requirement for state review of regulations remains necessary, and thus whether we should modify or update, rather than eliminate, this provision. We ask parties to address whether and to what extent these requirements should be extended. We also seek specific comment on whether elimination of this requirement would adversely impact competition or the public interest.

41. *Subpart T – Separate Affiliate Requirements.* Section 64.1903(c) contains a deadline for compliance with the requirements of this section that expired more than six years ago.⁹⁴ Accordingly, we propose to delete this provision as no longer necessary, and to modify section 64.1903(a) so that its reference to paragraph (c) is removed.⁹⁵ We seek comment on these proposals.

J. Part 69 – Access Charges

42. Sections 201 and 202 of the Act require that rates, terms, and conditions for telecommunications services be just and reasonable,⁹⁶ and prohibit unjust or unreasonable discrimination.⁹⁷ Part 69 implements these sections of the Act by establishing rules that perform several major functions, including establishing the rate structure for access charges to be paid by interexchange carriers to local exchange carriers (LECs) for the origination and termination of

⁹³ 47 C.F.R. § 64.1330(c). It should be noted that the Commission recently amended section 64.1320, which is also a rule that monitors the payphone service market. See *In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 03-235 (rel. Oct. 3, 2003) (*Pay Telephone Reclassification and Compensation Provisions Order*). Based upon filed comments in that proceeding, the Commission modified section 64.1320's verification and reporting requirements to better ensure that payphone service providers receive fair and adequate compensation. See *Pay Telephone Reclassification and Compensation Provisions Order* at paras. 38-43.

⁹⁴ 47 C.F.R. § 64.1903(c).

⁹⁵ 47 C.F.R. § 64.1903(a).

⁹⁶ 47 U.S.C. § 201.

⁹⁷ 47 U.S.C. § 202.

long distance calls, as well as the access charges to be paid directly by end users; governing how rate-of-return LECs calculate their access charge rates, in conjunction with the Part 61 price cap rules, establishing the degree of pricing flexibility available to price-cap LECs; and providing for the establishment of the National Exchange Carrier Association (NECA), which files tariffs on behalf of many of the smaller, rate-of-return LECs.

43. *Subpart B – Computation of Charges.* Sections 69.116 and 69.117 establish methodologies to assess charges on certain interexchange carriers for the universal service fund and lifeline assistance, respectively.⁹⁸ These sections provided for an effective period from August 1, 1988 through December 31, 1997; thus, it appears that they have expired on their own terms. Accordingly, we propose to repeal sections 69.116 and 69.117 as no longer necessary, and seek comment on this proposal.

44. Similarly, section 69.126 provides that incumbent local exchange carriers shall not assess any nonrecurring charges for service connections when an interexchange carrier converts trunks from tandem-switched transport to direct-trunked transport, or when an interexchange carrier orders the disconnection of over-provisioned trunks, until six months after the effective date of tariffs eliminating the unitary pricing option for tandem-switched transport.⁹⁹ All carriers to which this section applies have eliminated the unitary pricing option for tandem-switched transport. Thus, this provision does not appear to have any remaining relevance. Accordingly, we propose to repeal section 69.126, and seek comment on this proposal.

45. Section 69.127 provides for the retention of the transport rate structure in effect on August 1, 1991 until tariffs filed pursuant to the *Transport Rate Structure and Pricing Report and Order* become effective.¹⁰⁰ Tariffs filed pursuant to that Report and Order have become effective for all applicable carriers. Therefore, by its own terms, section 69.127 is no longer applicable. Accordingly, we propose to repeal section 69.127, and seek comment on this proposal.

46. *Subpart G – Exchange Carrier Association.* Section 69.612 provides for an effective period from July 1, 1994 through December 31, 1997 for long-term support payments to participants in the National Exchange Carrier Association common line tariff.¹⁰¹ These provisions are no longer applicable because their effective dates have expired. We therefore propose to repeal this section as no longer necessary, and seek comment on this proposal.

III. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

47. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁰² Persons making oral *ex parte* presentations are reminded

⁹⁸ 47 C.F.R. §§ 69.116-117.

⁹⁹ 47 C.F.R. § 69.126.

¹⁰⁰ 47 C.F.R. § 69.127, *see Transport Rate Structure and Pricing*, Report and Order, CC Docket No. 91-213, 7 FCC Rcd 7006 (1992).

¹⁰¹ 47 C.F.R. § 69.612.

¹⁰² *See generally* 47 C.F.R. §§ 1.1200-1.1203, 1.1206.

that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹⁰³ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.

B. Initial Paperwork Reduction Act Analysis

48 This Notice proposes to eliminate or modify in whole or in part certain information collections. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due 30 days from the date of publication of this Notice in the Federal Register.

C. Initial Regulatory Flexibility Analysis

49 As required by the Regulatory Flexibility Act (RFA),¹⁰⁴ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided below in section III.D. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.¹⁰⁵ In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.¹⁰⁶

1. Need for and Objectives of the Proposed Rules

50. In September 2002, the Commission issued Public Notices seeking comment from the public on which rules should be modified or repealed as part of the 2002 Biennial Regulatory Review.¹⁰⁷ The Commission later released a Report addressing certain legal and administrative matters relating to the biennial regulatory review process.¹⁰⁸ Concurrent with the release of the 2002 Report, the Commission released the 2002 Regulatory Review Staff Reports, drafted by several of the Commission's operating Bureaus and the Office of Engineering and Technology, which summarized their review of the rules under their purview to determine whether to recommend that the Commission modify or repeal such rules.¹⁰⁹ This Notice seeks comment on

¹⁰³ See 47 C.F.R. § 1.1206(b).

¹⁰⁴ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-12 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹⁰⁵ See 5 U.S.C. § 603(a).

¹⁰⁶ See *id.*

¹⁰⁷ See, e.g., *The Commission Seeks Public Comment in 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireline Competition Bureau*, Public Notice, WC Docket No. 02-313 (rel. Sep. 26, 2002).

¹⁰⁸ The Biennial Regulatory Review, CC Docket No. 02-390, Report, FCC 02-342 (rel. Mar. 14, 2003).

¹⁰⁹ See, e.g., *Wireline Competition Bureau, Federal Communications Commission, Biennial Regulatory Review 2002*, WC Docket No. 02-313, GC Docket No. 02-390, Staff Report, DA 03-804 (dated Dec. 31, 2002).

rules that the Commission believes may be appropriate for repeal or modification because they are outdated, have expired by their own terms, or as a result of competition may no longer be necessary in the public interest in their current form.

2. Legal Basis

51 The legal basis as proposed for this Notice is contained in sections 1, 3, 4, 201-205, 214, 251, 252, 254, 272, 276, and 403 of the Communications Act of 1934, as amended, 47 U.S.C §§ 151, 153, 154, 201-205, 214, 251, 252, 254, 272, 276, 403

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

52. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.¹¹⁰ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹¹¹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹¹² A "small business concern" is one which. (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹¹³

53. No new rules are proposed in the Notice; only modifications to or elimination of certain rules. Therefore, the proposals in this proceeding will not likely have a significant (negative) economic impact on service providers, including small entities. In fact, because several information collections are proposed to be eliminated, we expect that any impact on small entities will be positive (i.e., will eliminate economic burdens). Nevertheless, we consider in this IRFA analysis small incumbent local exchange carriers, local exchange carriers, competitive access providers, competitive local exchange carriers, cellular, PCS and other wireless service providers that are small entities.¹¹⁴

54 *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone

¹¹⁰ 5 U.S.C. § 603(b)(3)

¹¹¹ 5 U.S.C. § 601(6)

¹¹² 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632) Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register "

¹¹³ 15 U.S.C. § 632

¹¹⁴ The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. See *Trends in Telephone Service, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission*, Table 5.3 (Aug. 2003) (*Trends Report*).

communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.”¹¹⁵ The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not “national” in scope.¹¹⁶ We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

55 *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs) and “Other Local Exchange Carriers.”* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to “Other Local Exchange Carriers.” The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹¹⁷ According to Commission data,¹¹⁸ 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.¹¹⁹ In addition, 55 carriers reported that they were “Other Local Exchange Carriers.” Of the 55 “Other Local Exchange Carriers,” an estimated 53 have 1,500 or fewer employees and two have more than 1,500 employees.¹²⁰ Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and “Other Local Exchange Carriers” are small entities that may be affected by the rules and policies adopted herein

56 *Wireless Service Providers.* The SBA has developed a small business size standard for wireless small businesses within the two separate categories of *Paging*¹²¹ and *Cellular and Other Wireless Telecommunications*.¹²² Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to the Commission’s most recent data,¹²³ 1,387 companies reported that they were engaged in the provision of wireless service. Of these 1,387 companies, an estimated 945 have 1,500 or fewer employees and 442 have more than 1,500

¹¹⁵ 15 U.S.C. § 632.

¹¹⁶ Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of “small-business concern,” which the RFA incorporates into its own definition of “small business.” See 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret “small business concern” to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

¹¹⁷ 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 513310 (changed to 517110 in Oct. 2002).

¹¹⁸ *Trends Report* at Table 5.3, Page 5-5.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ 13 C.F.R. § 121.201, NAICS code 517211.

¹²² 13 C.F.R. § 121.201, NAICS code 517212.

¹²³ See *Trends in Telephone Service, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission*, Table 5.3, (August 2002).

employees.¹²⁴ Consequently, the Commission estimates that most wireless service providers are small entities that may be affected by the rules and policies adopted herein.

57. *Broadband Personal Communications Service (PCS)*. The broadband PCS spectrum is divided into six frequencies designated A through F, and the Commission has held auctions for each block. The Commission defined “small entity” for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹²⁵ For Block F, an additional classification for “very small business” was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹²⁶ These regulations defining “small entity” in the context of broadband PCS auctions have been approved by the SBA.¹²⁷ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.¹²⁸ On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

58. As stated above, the Commission does not propose any new rules that would add reporting, recordkeeping, or other compliance requirements. The Commission proposes only to modify or eliminate certain rules, thereby eliminating economic burdens for small entities. For example, the Commission seeks proposals on less costly and more efficient ways to collect, preserve and maintain carrier records and reports pursuant to Part 42 of its rules. The Commission also seeks to modify or streamline the procedures for disclosing network changes under Part 51 of its rules, as these procedures may have become unnecessarily complicated in light of carriers' ability to provide notice of changes and other information via the Internet. In addition, the Commission seeks comment on whether to continue to require carriers to file annually FCC Form 395, which is used to collect statistical information on the racial, ethnic, and gender makeup of a carrier's work force in nine specific job categories. In this Notice, we

¹²⁴ *Id*

¹²⁵ See *Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, Report and Order, FCC 96-278, WT Docket No. 96-59, Sections 57-60 (released June 24, 1996), 61 FR 33859 (July 1, 1996) (*Broadband PCS Order*), see also 47 C.F.R. § 24.720(b)

¹²⁶ See *Broadband PCS Order* at Section 60

¹²⁷ See, e.g., *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (1994).

¹²⁸ FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (rel. January 14, 1997).

therefore seek comment on the types of burdens that might be eliminated and encourage entities, especially small businesses, and to quantify, if possible, the costs and benefits of the proposals.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

59. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities, (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹²⁹

60. The Notice seeks comment on proposals to reduce the administrative burden and cost of compliance for small telecommunications service providers. The Commission has accepted the *statutory requirement that an alternative be considered when necessary to protect the interests of small entities*.¹³⁰ We particularly seek comment from contributors that are “small business concerns” under the Small Business Act on the proposals contained in the Notice.

6. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

61. None.

D. Comment Filing Procedures

62. We invite comment on the issues and questions set forth in the Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission’s rules,¹³¹ interested parties may file comments on or before 30 days after publication in the Federal Register of this Notice, and reply comments on or before 45 days after publication in the Federal Register of this Notice. All filings should refer to WC Docket No. 02-313. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.¹³²

63. Comments filed through ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is WC Docket No. 02-313. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: get form <your e-mail address>. A sample form and directions will be sent in reply.

¹²⁹ 5 U.S.C. § 603(c)

¹³⁰ *Id.*

¹³¹ 47 C.F.R. §§ 1.415, 1.419

¹³² See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

64 Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Parties who choose to file by paper are hereby notified that effective December 18, 2001, the Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location will be 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights MD 20743. This location will be open 8:00 a.m. to 5:30 p.m. USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. USPS mail addressed to the Commission's headquarters actually goes to our Capitol Heights facility for screening prior to delivery at the Commission.

If you are sending this type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m. E.S.T.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12th Street, SW Washington, DC 20554

All filings must be sent to the Commission's Secretary: Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554.

65 Parties who choose to file by paper should also submit their comments on diskette to Paul Garnett, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5C-3115 Washington, DC 20554. The submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including

the docket number, in this case, WC Docket No. 02-313), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file.

66. Regardless of whether parties choose to file electronically or by paper, parties must also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Inc, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554. Comments and reply comments will be available on ECFS. Comments and reply comments also will be available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. In addition, the full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

67. Comments and reply comments should include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments also must comply with section 1.49 and all other applicable sections of the Commission's rules.¹³³ Parties should include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the Notice to facilitate our internal review process.

68. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (tty).

69. For further information, contact Paul W. Garnett at (202) 418-1500 in the Wireline Competition Bureau.

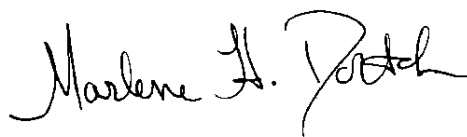
IV. ORDERING CLAUSES

70. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 3, 4(i), 4(j), 201-205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 403, this Notice of Proposed Rulemaking IS ADOPTED.

¹³³ See 47 C.F.R. § 1.49

71 IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Marlene H. Dortch". The signature is fluid and cursive, with the first name "Marlene" being the most prominent part.

Marlene H. Dortch
Secretary

APPENDIX –Proposed Rule Changes***PART 36 – JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES**

1 The authority citation for Part 36 continues to read as follows:

AUTHORITY: 47 U.S.C. Secs. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

2. Section 36.2 is proposed to be revised as follows:

Section 36.2 Fundamental principles underlying procedures.

(b) ****

(3) ****

(ii) Holding-time-minutes is the basis for measuring the use of **local and toll switching plant.**

(iii) ****

(iv) ~~A subscriber plant factor is the basis of apportioning the cost of message telecommunications subscriber plant and local switching plant between State and interstate operations. The subscriber plant factor is developed and used according to the procedures set forth in §§36.154(e) through 36.154(f).~~ **Message telecommunications subscriber plant shall be apportioned on the basis of a Gross Allocator which assigns 25 percent to the interstate jurisdiction and 75 percent to the state jurisdiction.**

3. Section 36.125 is proposed to be revised as follows:

Section 36.125 Local switching equipment-Category 3.

(f) ~~Beginning January 1, 1993 and ending December 31, 1997, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate allocation factor that is the lesser of either .85 or the product of the interstate DEM factor specified in paragraph (a)(5) of this section multiplied by a weighting factor as determined by the table below. Beginning January 1, 1998, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate~~

* Proposed deleted language is stricken; proposed added language is in bold

allocation factor that is the lesser of either .85 or the sum of (1) the interstate DEM factor specified in paragraph (a)(5) of this section, and (2) the difference between the 1996 ~~weighted interstated~~ interstate DEM factor and the 1996 interstate DEM factor **multiplied by a weighting factor as determined by the table below.** The Category 3 investment that is not assigned to the interstate jurisdiction pursuant to this paragraph is assigned to the state jurisdiction.

4. Section 36.126 is proposed to be revised as follows:

Section 36.126 Circuit equipment-Category 4.

(e) ****

(2) Interexchange Circuit Equipment Used for Wideband Service-Category 4.22- This category includes the circuit . . . cable and wire facilities described in § 36.156.

(3) All Other Interexchange Circuit Equipment-Category 4.23- This category includes . . . Jointly used message circuits, i.e., message switching plant circuits carrying messages from the state and interstate operations, ~~circuits used exclusively for TWX service;~~ circuits ~~uses~~ used for state private line service; . . .

(i) An average interexchange circuit equipment cost . . . classes of circuits: Private Line, State Private Line, Message, ~~and TWX.~~ . . .

(ii) Delete entire paragraph.

(iii) The cost of special circuit equipment is segregated among ~~TWX service,~~ telegraph grade private line services and other private line services based on an analysis of the use of the equipment and in accordance with § 36.126(b)(4). ~~The cost of TWX special circuit equipment is apportioned on the same basis as that used for intertoll TWX circuits.~~ The special circuit equipment cost assigned to telegraph grade and other private line services is directly assigned to the appropriate operations.

5. Section 36.142 is proposed to be revised as follows:

Section 36.142 Categories and apportionment procedures.

(a) *Other Information Origination/Termination Equipment-Category 1.* This category includes . . . subcategory 1 3 Exchange Line C&WF. ~~If amounts of coinless pay telephone equipment are substantial, the cost of such equipment should be separately identified and allocated on the basis of relative toll minutes of use for interexchange carriers and minutes of use for exchange carriers.~~

6. Section 36.152 is proposed to be revised as follows:

Section 36.152 Categories of Cable and Wire Facilities (C&WF).

(a) ****

(1) Exchange Line C&WF *Excluding Wideband*-Category 1-This category includes C&W facilities between local central offices and subscriber premises used for message telephone, ~~TWX subscriber lines~~, private line,

(2) *Wideband and Exchange Trunk* C&WF-Category 2-This category includes all wideband, . . . tandem trunks principally carrying exchange traffic, the exchange trunk portion of ~~TWX~~ and WATS access lines, the exchange portion

7. Section 36.154 is proposed to be revised as follows:

Section 36.154 Exchange Line Cable and Wire Facilities (C&WF)-Category 1-apportionment procedures.

(c) ~~Except as provided in § 36.154 (d) through (f),~~ Effective January 1, 1986, 25 percent of the costs assigned to subcategory 1.3 shall be allocated to the interstate jurisdiction.

(d) Delete entire paragraph.

(e) Delete entire paragraph.

(f) Delete entire paragraph.

8. Section 36.156 is proposed to be revised as follows:

Section 36.156 Interexchange Cable and Wire Facilities (C&WF)-Category 3-apportionment procedures.

(b) The cost of C&WF applicable to . . . as applied to toll message circuits, ~~TWX circuits~~, etc.

9. Section 36.212 is proposed to be revised as follows:

Section 36.212 Basic local services revenue-Account 5000.

(c) Wideband Message Service ~~and TWX~~ revenues from monthly and miscellaneous charges, service connections, move and change charges, are apportioned between state and interstate operations on the basis of the relative number of ~~TWX~~ minutes-of-use in the study area. Effective July 1, 2001, through June 30, 2006, all study areas shall apportion Wideband Message Service ~~and TWX~~ revenues among the jurisdictions using the relative number of ~~TWX~~ minutes of use for the twelve-month period ending December 31, 2000.

10. Section 36.214 is proposed to be revised as follows:

Section 36.214 Long distance message revenue-Account 5100.

(a) Wideband message service ~~and TWX~~ revenues from monthly and miscellaneous charges, service connections, move and change charges, are apportioned between state and interstate operations on the basis of the relative number of minutes-of-use in the study area. Effective July 1, 2001 through June 30, 2006, all study areas shall apportion Wideband Message Service ~~and TWX~~ revenues among the jurisdictions using the relative number of — minutes of use for the twelve-month period ending December 31, 2000.

11. Section 36.375 is proposed to be revised as follows:

Section 36.375 Published directory listing.

(b) ****

(2) Delete entire paragraph.

12. Section 36.377 is proposed to be revised as follows:

Section 36.377 Category 1- Local business office expense.

(a) ****

(1) End-user service order processing includes . . . other interstate message toll including WATS; ~~and TWX~~.

(viii) Delete entire paragraph.

(2) End User payment and collection include . . . local, including directory advertising; ~~and TWX~~.

(vi) Delete entire paragraph.

(vii) Effective July 1, 2001, through June 30, 2006, study areas
Effective July 1, 2001 through June 30, 2006, all study areas shall
apportion TWX payment and collection expense, as specified in
§36.377(2)(vi) among the jurisdictions using relative billed TWX
revenues for the twelve month period ending December 31, 2000. All
other subcategories of End User payment and collection expense, as
specified in §§ 36.377(a)(2)(i) through 36.377(a)(2)(vi)(v), shall be
directly assigned.

(3)

(7) Coin collection and administration includes expenses for the collection and
counting of money deposited in public or semi-public phones. . . . These
expenses are apportioned between the State and interstate jurisdictions in
proportion to the relative State and interstate revenues deposited in the public and
semi-public telephones.

13. Section 36.631 is proposed to be revised as follows:

Section 36.631 Expense adjustment.

(a) Delete entire paragraph.

(b) Delete entire paragraph.

(d) Beginning January 1, 1998, for study areas reporting more than 200,000 working
loops After January 1, 2000, the expense adjustment (additional interstate expense
allocation) for non-rural telephone companies serving study areas reporting more
than 200,000 working loops pursuant to §36.611(h) shall be calculated pursuant to . . .

14. Section 36.641 is proposed to be deleted.

15. Appendix to Part 36—Glossary

Delete the following terms and their definitions:

TWX

TWX Connection

TWX Connection-Minute-Kilometers

TWX Switching Plant Trunks

PART 51 – INTERCONNECTION

1. The authority citation for Part 51 continues to read as follows:

AUTHORITY: Sections 1-5, 7, 201-05, 207-09, 218, 225-27, 251-54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. §§ 151-55, 157, 201-05, 207-09, 218, 225-27, 251-54, 271, 332, unless otherwise noted.

2. Section 51.211 is proposed to be revised as follows:

Section 51.211 Toll dialing parity implementation schedule.

- (a) Delete entire paragraph.
- (b) Delete entire paragraph.
- (c) Delete entire paragraph.
- (d) Delete entire paragraph.
- (e) Delete entire paragraph.

3. Section 51.213 is proposed to be revised as follows:

Section 51.213 Toll dialing parity implementation plans.

- (c) Delete entire paragraph.
- (d) Delete entire paragraph.

4. Section 51.329 is proposed to be revised as follows:

Section 51.329 Notice of network changes: Methods for providing notice.

- (c) ****

- (3) Delete entire paragraph.

5. Section 51.515 is proposed to be revised as follows:

Section 51.515 Application of access charges.

(b) Delete entire paragraph.

(c) Delete entire paragraph.

PART 52 - NUMBERING

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sec 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. § 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.5 is proposed to be revised as follows:

Section 52.5 Definitions

(c) *North American Numbering Plan* (NANP). The “North American Numbering Plan” is the basic numbering scheme for the telecommunications networks located in **American Samoa, Anguilla, . . .**

3 Section 52.11 is proposed to be revised as follows

(d) Delete entire paragraph.

4. Section 52.13 is proposed to be revised as follows:

(b) Section 52.13(b): The NANPA shall administer the numbering resources identified in paragraph (d) of this section. It shall assign and administer NANP resources in an efficient, effective, fair, unbiased, and non-discriminatory manner consistent with industry-developed guidelines and Commission regulations. It shall support the ~~industry's~~ **Commission's** efforts to accommodate current and future numbering needs. . .

(3) Complying with guidelines of the North American Industry Numbering Committee (INC) or its successor, . . . , and the guidelines of other appropriate policy-making authorities, ~~all of which may be modified by other industry fora or other appropriate authority;~~

(c) ****

(4) Manage projects such as Numbering Plan Area (NPA) relief (area code relief) planning, ~~and the Central Office Code Utilization Survey (COCUS)~~ **Numbering Resource Utilization and Forecast (NRUF) data collection, and NPA and NANP exhaust projection,**

5. Section 52.15 is proposed to be revised as follows:

(b) ****

~~(3) Contributing to the CO Code Use Survey (COCUS), an annual survey that describes the present and projected use of CO codes for each NPA in the NANP~~ **Conducting the Numbering Resource Utilization and Forecast (NRUF) data collection,**

(c) Delete entire paragraph.

(d) *Central Office (CO) Code Administration functional requirements.* The NANPA shall manage the United States CO code numbering resource, including CO code request processing, NPA code relief and jeopardy planning, and industry notification functions. The NANPA shall perform its CO Code administration functions in accordance with the published industry numbering resource administration guidelines and Commission orders and regulations of 47 CFR chapter 1. ~~Subject to the approval of the Commission, the NANPA shall develop a transition plan to transfer current CO code assignment from the current administrators to itself and shall submit this plan to the Commission within 90 days of the effective date of the Commission order announcing the selection of the NANPA. The NANPA shall complete the transfer of CO code assignment functions from the existing administrators to itself no more than 18 months after the NANPA has assumed all of said administrators' current NANPA function.~~

(e) Delete entire paragraph.

6. Section 52.23 is proposed to be revised as follows:

(g) Delete entire paragraph.

7. Section 52.27 is proposed to be deleted

8. Section 52.29 is proposed to be deleted.

9. Section 52.31 is proposed to be revised as follows:

- (c) Delete entire paragraph.

PART 53 – SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

1. The authority citation for Part 53 continues to read as follows:

AUTHORITY Sections 1-5, 7, 201-05, 218, 251, 253, 271-75, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151-55, 157, 201-05, 218, 251- 253, 271-75, unless otherwise noted.

2. Section 53.101 is proposed to be deleted.

Part 54 – UNIVERSAL SERVICE

1. The authority citation for Part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.201 is proposed to be revised as follows:

(a) *****

- (2) Delete entire paragraph.

3. Section 54.313 is proposed to be revised as follows:

(d) ****

- (1) Delete entire paragraph.

- (2) Delete entire paragraph.

4. Section 54.604 is proposed to be revised as follows:

(a) ****

- (1) A contract signed on or before July 10, 1997 is exempt from the competitive bid requirement for the life of the contract; ~~or~~.

- (2) Delete entire paragraph.

5. Section 54.623 is proposed to be revised as follows:

(c) ****

(4) The Administrator may implement such additional filing periods as it deems necessary. **Applications filed by health care providers within any such additional filing period shall be treated as if they were simultaneously received.**

PART 63 – EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority citation for Part 63 continues to read as follows:

AUTHORITY: Sections 1, 4(i), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, and 571, unless otherwise noted.

2. Section 63.61 is proposed to be revised as follows:

Any carrier subject to the provisions of section 214 of the Communications Act of 1934, as amended, except any non-dominant carrier as this term is defined in § 61.3~~(u)~~ of this chapter, proposing to discontinue . . . pending final action on the application for discontinuance of service. **Procedures for discontinuance, reduction or impairment of service by dominant and non-dominant, domestic carriers are in § 63.71 of this chapter. Procedures for discontinuance, reduction or impairment of international services are in § 63.19 of this chapter.**

3. Section 63.71 is proposed to be revised as follows:

(a) ****

(i) If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that If you wish to object, you should file your comments ~~within 15 days after receipt of this notification~~ **as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance.** Address them to the Federal Communications Commission, **Wireline Competition Bureau, Competition**

Policy Division, Washington, DC 20054, referencing the § and include in your comments a reference to the Section 63.71 Application of (carrier's name) .

(ii) If the carrier is dominant with respect to the service being discontinued, reduced or impaired, the notice shall state:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that If you wish to object, you should file your comments ~~within 30 days after receipt of this notification~~ **as soon as possible, but no later than 30 days after the Commission releases public notice of the proposed discontinuance.** Address them to the Federal Communications Commission, **Wireline Competition Bureau, Competition Policy Division, Washington, DC 20054, referencing the § and include in your comments a reference to the Section 63.71 Application of (carrier's name).** . .

(d) Procedures for discontinuance, reduction or impairment of international services are in § 63.19 of this chapter.

PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 47 U.S.C. 225, 47 U.S.C. 251(e)(1), 47 U.S.C. 276. 151, 154, 201, 202, 205, 218-220, 254, 276, 302, 303, and 337 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201-204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

2. Section 64.1903 is proposed to be revised as follows:

(a) ~~Except as provided in paragraph (c) of this section, an~~ **An** incumbent independent LEC . .

(c) Delete entire paragraph

PART 69 – ACCESS CHARGES

1 The authority citation for Part 69 continues to read as follows:

AUTHORITY. 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

2 Section 69.116 is proposed to be deleted.

3 Section 69.117 is proposed to be deleted.

4 Section 69.126 is proposed to be deleted.

5 Section 69.127 is proposed to be deleted.

6. Section 69.612 is proposed to be deleted.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re *Biennial Regulatory Review of Regulations Administered by the Wireline
Competition Bureau (WC Docket No. 02-313)*

I support today's Notice of Proposed Rulemaking. In it, we take appropriate steps to clean up and refresh our rules. Nonetheless, I question the wisdom of seeking comment on the continuing need for Section 1.815 of our rules. How can it be that at a time when we are trumpeting the significance of our Advisory Committee on Diversity for Communications in the Digital Age, we also are suggesting that information gathering about the diversity of the telecommunications work force is no longer in the public interest? It looks like one hand of the agency is not talking to the other. The information collected pursuant to this rule is exactly the kind of granular data the Committee will find useful to complete its mission. I fear efforts like this one may emasculate this new group and make their already difficult task more complex.

